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**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Docket Number (Optional)

ITL.0489US (P10269)

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on March 22, 2005

Signature

Typed or printed name Jennifer Juarez

Application Number

09/836,978

Filed

April 18, 2001

First Named Inventor

Werner Metz

Art Unit

2675

Examiner

Srilakshmi K. Kumar

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)☒attorney or agent of record. 42,117

Registration number

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attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

Signature

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Typed or printed name

512/418-9944

Telephone number

March 22, 2005

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.  
Submit multiple forms if more than one signature is required, see below\*.☒\*Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Werner Metz	§	Group Art Unit:	2675
Serial No.:	09/836,978	§		
Filed:	April 18, 2001	§	Examiner:	Srilakshmi K. Kumar
For:	Locating A Position On A Display Screen	§	Atty. Dkt. No.:	ITL.0489US (P10269)

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REASONS FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Sir:

Applicant seeks pre-appeal review of the rejections of claims 1, 5-11, 14, 17-21, 26-28 and 30. It is respectfully submitted that the rejection to pending claims 1, 5-11, 14, 17-21, 26-28 and 30 are clearly erroneous and the burden of an appeal should be avoided.

Pending claims 1, 5-11, 14, 17-21, 26-28 and 30 stand rejected under 35 U.S.C. §103(a) over U.S. Patent No. 6,377,249 (Mumford) in view of U.S. Patent No. 6,689,966 (Wiebe). This rejection is clearly erroneous, as neither reference teaches or suggests all claim limitations, and thus a *prima facie* case of obviousness cannot be established. MPEP §2143.03.

With regard to claim 1, neither reference teaches or suggests generating a different sequence of characteristic values each corresponding to a unique sequence of primary colors in each of at least two regions of a display until the position of a sensor with respect to the regions is determined, as recited by claim 1.

In this regard, Mumford does not teach generating such a sequence in each region until the position of a sensor is determined. Instead, Mumford teaches that when it is determined that a sensor is not within a particular region of the display, values are no longer generated for that region. Mumford, col. 17, lns. 41-47. Such termination of sequence generation continues for each region in which it is determined that the sensor is not located. *Id.* at col. 18, lns. 23-44.

Date of Deposit: March 22, 2006

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Jennifer Juarez

Accordingly, Mumford does not teach “generating a different sequence ... in each of said regions until the position” is determined (emphasis added). In addition, Wiebe is entirely silent on any position determination method, as instead Wiebe is merely directed to coding of a pattern with positional information.

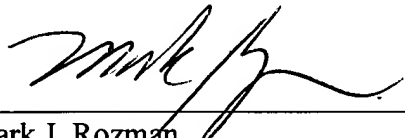
Furthermore, neither reference teaches or suggests generating a unique sequence of primary colors in each of multiple regions. In this regard, Mumford nowhere teaches such a unique sequence of primary colors. Instead, Mumford only teaches that the pixels generated on a display are a known overall color or grayscale value. However, neither of such values is a primary color. Mumford, col. 6, lns. 10-15. Furthermore, Wiebe nowhere teaches or suggests generating color information whatsoever. Instead, the positional information coded by Wiebe is in the form of symbols having a single value. Wiebe, cols. 10-12.

For at least these reasons, the cited references, either alone or in combination fail to teach or suggest all claim limitations of claim 1. Accordingly, a *prima facie* case of obviousness has not been made, and claim 1 and its dependent claims are patentable over the proposed combination. For at least the same reasons, independent claims 11 and 20 and the claims depending therefrom are similarly patentable.

Since this rejection fails to set forth a *prima facie* rejection and is clearly violative of existing PTO policy, the need for an appeal should be avoided.

Respectfully submitted,

Date: March 22, 2006



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